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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,698	02/18/2004	John M. Myrick	P1485	5579

24739 7590 08/04/2004

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EXAMINER

GUTMAN, HILARY L

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 08/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/782,698

Applicant(s)

MYRICK, JOHN M.

Examiner

Hilary Gutman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8-15 and 18-20 is/are rejected.
- 7) ☒ Claim(s) 6, 7, 16 and 17 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the one or more magnets, spring clamps, pin-and-socket interfaces, and adhesive fasteners of claims 4 and 14 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities:

On page 2, line 9, "I(n" should be "In". On line 14, "In some" should be "Some" and "a plurality of pegboards" should perhaps be inserted after "joining".

On page 3, lines 7 and 12, a comma should be inserted after "method" in both instances.

Appropriate correction is required.

3. The use of the trademark Velcro (pages 6 and 9) has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Claim Objections

4. Claims 6, 8-12, and 18-20 are objected to because of the following informalities:

In claim 6, line 3, "the" should be inserted before "pegs" and also before "items of cargo"

In claim 8, "the" should be inserted before "pegs" on line 1.

In claim 9, "the" should be inserted before "pegs" in line 2.

In claim 10, "the" should be inserted before "sleeves" on lines 1 and 2 and should also be inserted before "pegs" on line 2.

In claim 11, line 5, "the" should be inserted before "openings".

In claim 12, line 2, "support" should be deleted.

In claim 18, line 1, "the" should be inserted before "pegs".

In claim 19, line 2, "the" should be inserted before "pegs".

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In claim 20, line 2, “the” should be inserted before “sleeves”.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 2-4, 8-10, 12-14, and 18-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites the limitation "individual pegboards" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 8 recites the limitation "individual pegs" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the limitation "two different straps" in line 2 and the limitation “the same peg” in line 2. There is insufficient antecedent basis for these limitations in the claim.

Claim 12 recites the limitation "individual pegboards" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 18 recites the limitation "individual pegs" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 20 recites the limitation "two different straps" in line 2 and the limitation “the same peg” in line 2. There is insufficient antecedent basis for these limitations in the claim.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-3, 5, 8, 11-13, 15, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Parks.

Parks (4,027,892) discloses a pegboard system for constraining items of cargo in transit, comprising: one or more pegboards 18, 20, 22 to cover a cargo support area, the pegboards having an upper surface with openings 32 for pegs; and a plurality of pegs 36 sized to fit into the openings in the pegboards to constrain the items of cargo from substantial lateral movement.

For claim 11, Parks inherently discloses a method for constraining cargo in transit, comprising the steps of: (a) covering at least a portion of a cargo area with one or more pegboards 18, 20, 22 each having an upper surface with openings 32 for pegs; (b) placing an item of cargo B on the pegboard; and (c) placing pegs 36 in the opening in the one or more pegboards in a pattern around the item of cargo to constrain the item from lateral movement.

With regard to claims 2 and 12, individual pegboards having lateral interfaces 24, 26 for joining to cover the cargo support area.

With regard to claims 3 and 13, the lateral interfaces are dovetail shapes (Figures 2-3).

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With regard to claims 5 and 15, the opening are round holes extending at least part way through a thickness of the pegboard, and the pegs are round shaft having a diameter to firmly engage the openings.

With regard to claims 8 and 18, straps 86 (Figure 14) are provided for engaging the pegs to further constrain the items of cargo, the straps having ends enabled to attach to individual pegs.

9. Claims 1 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Mundt.

Mundt (6,007,282) discloses a pegboard system for constraining items 35 of cargo in transit, comprising: one pegboard 11 to cover a cargo support area, the pegboard having an upper surface with openings for pegs; and a plurality of pegs 30 sized to fit into the openings in the pegboard to constrain the items of cargo from substantial lateral movement.

For claim 11, Mundt inherently discloses a method for constraining cargo 35 in transit, comprising the steps of: (a) covering at least a portion of a cargo area with one pegboard 11 having an upper surface with openings for pegs 30; (b) placing an item 35 of cargo on the pegboard; and (c) placing pegs 30 in the opening in the one pegboard in a pattern (Figures 3-1 and 3-2) around the item of cargo to constrain the item from lateral movement.

10. Claims 1, 5, 8, 11, 15, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Bequette et al.

Bequette et al. (6,503,036) disclose a pegboard system for constraining items of cargo in transit, comprising: one pegboard 16 to cover a cargo support area, the pegboard having an upper

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surface with openings 14 for pegs; and a plurality of pegs 15a, 15b, 15c sized to fit into the openings in the pegboard to constrain the items of cargo from substantial lateral movement.

For claim 11, Bequette et al. inherently disclose a method for constraining cargo in transit, comprising the steps of: (a) covering at least a portion of a cargo area having one pegboard 16 with an upper surface with openings 14 for pegs; (b) placing an item of cargo (not shown) on the pegboard; and (c) placing pegs 15a, 15b, 15c in the opening in the one pegboard in a pattern (Figure 5) around the item of cargo to constrain the item from lateral movement.

With regard to claims 5 and 15, the openings are round holes extending at least part way through a thickness of the pegboard, and the pegs are round shaft having a diameter to firmly engage the openings (Figure 5 and 6).

With regard to claims 8 and 18, partitions or straps 15 are provided for engaging the pegs to further constrain the items of cargo, the straps having ends enabled to attach to individual pegs.

11. Claims 1, 5, 8-9, 11, 15, and 18-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Kluetsch.

Kluetsch (3,767,253) discloses a pegboard system for constraining items of cargo in transit, comprising: one or more pegboards 24 to cover a cargo support area, the pegboards having an upper surface with openings 25 for pegs; and a plurality of pegs 22 sized to fit into the openings in the pegboards to constrain the items of cargo from substantial lateral movement.

For claim 11, Kluetsch inherently discloses a method for constraining cargo in transit, comprising the steps of: (a) covering at least a portion of a cargo area with one or more

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pegboards each having an upper surface with openings for pegs; (b) placing an item of cargo on the pegboard; and (c) placing pegs in the opening in the one or more pegboards in a pattern around the item of cargo to constrain the item from lateral movement.

With regard to claims 5 and 15, the opening are round holes extending at least part way through a thickness of the pegboard, and the pegs are round shaft having a diameter to firmly engage the openings.

With regard to claims 8 and 18, straps 20 are provided for engaging the pegs to further constrain the items of cargo; the straps having ends enabled to attach to individual pegs.

With regard to claims 9 and 19, the end of the straps are enabled by sleeves to slidably engage the pegs.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 1-4 and 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bourgault et al. in view of Mundt.

Bourgault et al. (6,575,679) disclose a truck bed or floor for constraining items of cargo in transit, comprising: one or more boards to cover a cargo support area, the boards having an upper surface.

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For claim 11, Bourgault et al. inherently disclose a method for constraining cargo in transit, comprising the steps of: (a) covering at least a portion of a cargo area with one or more boards each having an upper surface; (b) placing an item of cargo on the board.

With regard to claims 2 and 12, individual boards have lateral interfaces for joining to cover the cargo support area.

With regard to claims 3 and 13 the lateral interfaces are dovetail shapes.

With regard to claims 4 and 14, the lateral interfaces include one or more pin-and-socket interfaces, or fasteners.

Bourgault et al. lack the boards being pegboards and having openings for pegs to secure the items of cargo. Additionally, Bourgault et al. lack the method of placing pegs in the openings in the one or more boards in a pattern around the item of cargo to constrain the item from lateral movement.

Mundt (6,007,282) teaches a pegboard system for constraining items 35 of cargo in transit, comprising: one pegboard 11 to cover a cargo support area, the pegboard having an upper surface with openings for pegs; and a plurality of pegs 30 sized to fit into the openings in the pegboard to constrain the items of cargo from substantial lateral movement.

For claim 11, Mundt inherently teaches a method for constraining cargo 35 in transit, comprising the steps of: (a) covering at least a portion of a cargo area with one pegboard 11 having an upper surface with openings for pegs 30; (b) placing an item 35 of cargo on the pegboard; and (c) placing pegs 30 in the opening in the one pegboard in a pattern (Figures 3-1 and 3-2) around the item of cargo to constrain the item from lateral movement.

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the boards of Bourgault et al. with openings and pegs therein as taught by Mundt in order to provide pegboards for Bourgault et al. in order to better secure items of cargo for transit.

Allowable Subject Matter

14. Claims 6-7 and 16-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

15. Claims 10 and 20 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hilary Gutman whose telephone number is 703-305-0496.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 703-308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

18. Any response to this action should be mailed to:

Assistant Commissioner for Patents

Washington, D.C. 20231


or faxed to:

(703) 872-9326, (for formal communications intended for entry)

or:

(703) 746-3515, (for informal or draft communications, please clearly label

“PROPOSED” or “DRAFT”).


Hilary Gutman
August 2, 2004